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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/810,434      | 03/15/2001  | Glenn McGall         | 2719.2017-001       | 6484             |

33880                      7590                      11/29/2004

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EXAMINER  
EPPS FORD, JANET L

|          |              |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
| 1635     |              |

DATE MAILED: 11/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

*SUPPLEMENTAL*  
**Notice of Allowability**

Application No.

09/810,434

Examiner

Janet L. Epps-Ford, Ph.D.

Applicant(s)

MCGALL ET AL

Art Unit

1635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☐ This communication is responsive to \_\_\_\_.
2. ☒ The allowed claim(s) is/are 1-17 and 19.
3. ☒ The drawings filed on 02 January 2002 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),  
Paper No./Mail Date 11-18-2004.
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_.

Janet L. Epps-Ford, Ph.D.  
Patent Examiner  
Art Unit: 1635

### EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Thomas Malone on 11-18-2004.

The application has been amended as follows:

1.(Currently Amended) A method of oxidizing a phosphite ester linkage in a nucleic acid array to a phosphate linkage, comprising contacting said phosphite ester linkage with a solution of from ~~about~~ 0.005 M to ~~about~~ 0.05 M iodine in a mixture of water and aprotic organic solvent to form said phosphate linkage.

The following amendment set forth in the Examiner's amendment of 7-13-04 was cancelled:

In claims 1-3, the phrase "about 0.005 M to about 0.05 M iodine" was replaced with the phrase "0.005 M to 0.05M."

The correct amendment was:

In claims 2-3, the phrase "about 0.005 M to about 0.05 M iodine" was replaced with the phrase "0.005 M to 0.05M iodine."

2. The following is an examiner's statement of reasons for allowance:

The amendment to identify the organic solvent used in the claimed method as an "aprotic" solvent has been done to preclude the need to further prosecute the instant claims under 35 USC § 103(a) as being obvious for the reasons of record. The Rule 1.132 Declaration submitted by Applicants on 3-14-2003 was not considered commensurate in scope for the broad class of organic solvents originally encompassed by the claimed invention. The unexpected results set forth in the Declaration, were obtained using the preferred class of organic solvents according to the present invention, specifically "aprotic" solvents (see page 20, lines 3-10). The claimed method without such an amendment would remain rejected under 35 USC 103(a) for the reasons of record since the unexpected results set forth in the 3-14-2003 Declaration were not commensurate in scope with the claimed method which encompassed the use of any class of organic solvent.

The second amendment set forth above was considered necessary to correct a typographical error in the examiner's amendment mailed 7-13-2004.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janet L. Epps-Ford, Ph.D. whose telephone number is 571-272-0757. The examiner can normally be reached on Monday-Saturday, Flex Schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John L. LeGuyader can be reached on 571-272-0760. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Janet L. Epps-Ford, Ph.D.  
Patent Examiner  
Art Unit 1635

*JLE*

JOHN L. LEGUYADER  
SUPERVISOR  
TECHNOLOGY CENTER 1600